

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of) MB Docket No. 14-82
)
PATRICK SULLIVAN) FRN 0003749041, 0006119796,
(Assignor)) 0006149843, 0017196064
)
and) Facility ID No. 146162
)
LAKE BROADCASTING, INC.) File No BALFT-20120523ABY
(Assignee))
)
Application for Consent to Assignment of)
License of FM Translator Station W238CE,)
Montgomery, Alabama)

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

**LAKE BROADCASTING, INC.'S OPPOSITION TO
ENFORCEMENT BUREAU'S REQUEST FOR
EXTENSION OF TIME TO PROVIDE EXPERT'S
DOCUMENTATION AND MOTION TO
DISQUALIFY EXPERT**

Lake Broadcasting, Inc. ("Lake"), by its attorney, pursuant to Section 1.294 of the Commission's Rules, hereby opposes the Enforcement Bureau's ("Bureau") "Request for Extension of Time to Provide Expert's Documentation" and asks the Presiding Judge to immediately disqualify Tammy Gremminger as an expert witness in this proceeding. In support whereof, the following is shown.

1. Contrary to the opening sentence in the Bureau's Request, Lake has been attempting to obtain documents pertaining to Tammy Gremminger's putative qualifications as an expert witness in this proceeding since October 5, 2016. See

attached e-mail memo dated October 5, 2016. Lake's counsel advised the Bureau by the attached e-mail memo dated November 14, 2016, that, absent such documents, he would ask the Presiding Judge for guidance at the November 17, 2016 Prehearing Conference as to when the Judge would entertain a motion by Lake to have Ms. Gremminger disqualified as an expert witness.

2. The matter was discussed at the Conference, and the Presiding Judge ordered the Bureau to turn over the requested documents to Lake by today (November 30, 2016). Alas, the cupboard is bare, and the Bureau reports in its Request that its witness is AWOL: the Bureau has been trying for the last two weeks to contact Ms. Gremminger, but she has not responded, the Bureau does not know why, and it hopes that December 15 will give it "sufficient time to coordinate with its witness" (Request at Para. 3). The Presiding Judge should not stand for such silliness and should immediately disqualify Ms. Gremminger as a sham expert witness.

3. The Bureau seeks the tribunal's sympathy, emphasizing that Ms. Gremminger "is volunteering her testimony and evidence *gratis*, without fee or payment of any kind for her time, and must manager her work on behalf of the Bureau in conjunction with her regular busy workload schedule" (Request at Para. 1). However, Ms. Gremminger is not entitled to any such sympathy. In its August 29, 2016 "Report Regarding Involvement of Tammy Gremminger with Michael Rice During his Parole" ("Report"), the Bureau mistakenly averred (at p. 2) that Ms. Gremminger had "personal contact with Mr. Rice during the period of his parole

and probation,” and that “Ms. Gremminger met Mr. Rice on home visits, office visits, and in group sessions at the time of his supervision.” But, at her September 14, 2016 Deposition (TR 37-42), Ms. Gremminger testified that she only visited the vicinity of Mr. Rice’s home three times in two and one-half years, went inside once, and never spoke to Mr. Rice. Likewise, when Mr. Rice came to the Probation office to check in, she never spoke to him, she did not attend any group meetings concerning Mr. Rice, she was never his supervising officer, and her last contact with him occurred prior to his release from parole in August 2002.

4. Also at her September 14, 2016 Deposition (TR 37), Ms. Gremminger testified that she had testified as an expert in 10 to 15 cases, and Lake’s counsel asked her to provide a list of those cases identified as best as she could so that Lake might be able to research them in Lexis or someplace else. And at TR 36-37, Ms. Gremminger testified that she received several certificates of completion for expert training in risk assessment, and Lake’s counsel asked her to provide copies of all of those certificates. These are the documents that were supposed to be produced today, but were not. By these antics, their very existence is called into question.

5. The context of the above Deposition questions was to test Mr. Gremminger’s statements in a two-page November 16, 2015 “Statement of Tammy Gremminger” (attached hereto) that she has “gained substantial expertise in the management of sex offenders as they reenter the community” and that she has “testified as an expert in the area of risk assessment of child sex offenders in a number of cases in Missouri, in which [she] offered [her] opinion on the risk of re-

offense by sexual offenders convicted of similar offenses to those committed by Michael Rice". She also stated that "I remember Michael Rice," and "The opinions I express in my written and oral testimony are based upon my recollection of Mr. Rice's performance during his parole and these records [kept in the regular course of business here at the Missouri Department of Corrections]". At her Deposition, Ms. Gremminger showed all of this to be nonsense.


6. At her Deposition (TR 34-35), Ms. Gremminger stated that her superiors had not approved her November 16, 2015 Statement, that she had not shown it to them, that she was not at the Deposition with their permission, and that she was not present in any official capacity and was not being compensated by anyone.

7. In short, Ms. Gremminger is a phony -- a self-proclaimed risk assessment expert with no supporting documentation of her expertise and almost no physical contact with the subject of her assessment -- Mr. Rice -- except for one time prior to August 2002 -- 14 years ago. The fact that she has worked in the Department of Corrections for 30 years does not make her an expert. She has labored in the vineyards but has never risen through the ranks; she has never been a supervisor and is not one now. The description of her expertise in the Bureau's Report is inflated and inaccurate.

8. Under these circumstances, it is shameful that the Bureau persists in trying to bolster Ms. Gremminger's status as an "expert" in this proceeding. She should be immediately disqualified. We need not wait until December 15.

WHEREFORE, in view of the foregoing, Lake Broadcasting, Inc. respectfully asks that the Bureau's Request should be denied and that Tammy Gremminger should be disqualified as an expert witness in this proceeding immediately.

Respectfully submitted,



Jerold L. Jacobs

Law Offices of Jerold L. Jacobs
1629 K Street, N.W. Suite 300
Washington, DC 20006
(202) 508-3383

Counsel for Lake Broadcasting, Inc.

Dated: November 30, 2016

Attachments (Exhibit A)

EXHIBIT A

Jerold Jacobs

From: Jerold Jacobs <jerold.jacobs.esq@verizon.net>
Sent: Wednesday, October 5, 2016 1:13 PM
To: William Knowles-Kellett; Gary Oshinsky
Subject: Documents requested by Lake during deposition of Tammy Gremminger

10/5/16

Bill and Gary:

In Gremminger Dep. TR 37, Tammy testified that she has testified as an expert in 10 to 15 cases, and I asked her to give us a list of those cases identified as best as she could so that we might be able to research them in Lexis or someplace else.

In Gremminger Dep. TR 36-37, Tammy testified that she received several certificates of completion for expert training in risk assessment. I asked her if she would give us copies of all of those certificates.

We would greatly appreciate receiving the requested documents soonest.

Many thanks,

Jerry

Jerold L. Jacobs, Esq.
Law Offices of Jerold L. Jacobs
1629 K Street, N.W. Suite 300
Washington, D.C. 20006
Tel.: 202-508-3383
Fax: 202-331-3759
E-mail: jerold.jacobs.esq@verizon.net

Jerold Jacobs

From: Jerold Jacobs <jerold.jacobs.esq@verizon.net>
Sent: Monday, November 14, 2016 11:48 PM
To: William Knowles-Kellett; Gary Oshinsky
Subject: Documents requested by Lake during deposition of Tammy Gremminger; intent to move to disqualify Gremminger as an expert witness

11/14/16

Bill and Gary:

I have your November 14 "Enforcement Bureau's Topics for the November 17, 2016 Status Conference".

To date, you have not provided Lake with the documents referenced below, which are very relevant to Tammy Gremminger's putative qualifications as an expert witness in this proceeding.

Therefore, in the absence of such documents, at the Status Conference on November 17, I will ask the Presiding Judge for guidance as to when he will entertain a motion by Lake to have Ms. Gremminger disqualified as an expert witness. Since this question falls within the province of "concluding trial preparation," which the Presiding Judge identified in his *Order*, FCC 16M-27, released October 25, 2016, I do not think it is necessary to advise him in advance about this request for guidance, but I thought it appropriate to let you know.

Jerry

-----previous memo-----
10/5/16

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Jerold L. Jacobs, Esq.
Law Offices of Jerold L. Jacobs
1629 K Street, N.W. Suite 300
Washington, D.C. 20006
Tel.: 202-508-3383
Fax: 202-331-3759
E-mail: jerold.jacobs.esq@verizon.net

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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	:
	: MB Docket No. 14-82
PATRICK SULLIVAN	:
Assignor	: FRN 0003749041
	: 0006119796
And	: 0006149843
	: 0017196064
LAKE BROADCASTING, INC.	:
Assignee	: Facility ID No.
	: 146162
Application for Lonsetto	:
Assignment of License of	: File No.
AM Translator Station	: BA1FT-20120523ABY
W238CE	:
Montgomery, Alabama	:

Chesterfield, MO

Wednesday
September 14, 2016

DEPOSITION of

TAMMY GREMMINGER

called for examination by Counsel for the
Assignor, at 300 Chesterfield Center, Suite 150,
Chesterfield, Missouri, at 2:00 p.m., when were
present:

1 was your caseload much lighter?

2 A I believe it depends. It always
3 depends year to year how -- it fluctuates
4 tremendously from year to year what our caseload
5 generally is.

6 Q With so many clients and without your
7 specific your own notes or documentations, how
8 can you remember anything about Mr. Rice 14 years
9 later?

10 A Recollection. I have a good memory of
11 clients.

12 Q Did your superiors approve the
13 contents of your statement?

14 A No.

15 Q Did you show it to them?

16 A No.

17 Q Are you here today with the permission
18 of your superiors?

19 A No, I'm here today as an expert
20 witness to testify on this case.

21 Q So you're kind of on your own?

22 A Yes.

1 Q You're not here as part of your
2 official employee?

3 A That is correct.

4 Q Do your superiors know that you're
5 here?

6 A Yes.

7 Q But you're not here in any official
8 capacity?

9 A No, sir, I'm here as an expert witness
10 to testify.

11 Q Are you receiving any compensation for
12 your appearance as a witness in this proceeding?

13 A No, sir.

14 Q No?

15 A No.

16 Q I now direct your attention, please,
17 to your statement. In Paragraph 1 of your
18 statement, you describe yourself as a risk
19 assessment expert. What does that mean?

20 A I assess sex offenders by numerous
21 methods of my experience in reviewing police
22 reports, documentations, MoSOP, working with law

1 enforcement, prosecuting attorney's office. I do
2 training in experience of risk factors associated
3 with sexual offenders and reoffenders relapse
4 prevention.

5 Q I think you indicated that when you
6 first came on board, 1993, you had some special
7 training. But have you had any more specialized
8 training since then?

9 A Yes.

10 Q In what areas?

11 A Sex offenders supervision.

12 Q Risk assessment?

13 A Yes.

14 Q Do you have any expert certificate?

15 A Yes.

16 Q You do?

17 A Uh-huh (affirmative).

18 Q Would you please supply us with a copy
19 of that? And when did you receive that
20 certificate?

21 A Throughout the years, I received
22 certificates of completion.

1 Q Oh, several?

2 A Uh-huh (affirmative), yes, sir.

3 Q So I would appreciate it if you would
4 give us copies of all of them.

5 And how many cases have you testified
6 as an expert?

7 A I would say maybe 10 to 15.

8 Q Would you please give us a list of
9 those cases identified as best you can so that we
10 might be able to research them in Lexis or
11 someplace else?

12 In Paragraph 2 of your statement, you
13 state that you state that you "remember,"
14 quote/unquote, Mr. Rice. And the FCC's
15 Enforcement Bureau has written that you were
16 present at home visits involving Mr. Rice and you
17 mention that you were inside his house at least
18 once and in the vicinity two more times.

19 How often do these kinds of visits
20 occur? Are they supposed to be like every six
21 months? Or I understand you said that they were
22 surprise visits. But I'm just curious. Is there

1 a kind of schedule, if you will?

2 A It's random. Every two weeks, three
3 weeks.

4 Q Two or three weeks?

5 A Uh-huh (affirmative).

6 Q So but we're talking about two and a
7 half years.

8 A Correct.

9 Q And so you're saying in two and a half
10 years that might be like 20 visits a year?

11 A That could be correct.

12 Q So two and a half years would be like
13 50 visits?

14 A It could be, yes.

15 Q And you were present at one?

16 A I can recall three times I was there.

17 Q In all that time, okay. You don't
18 remember the dates of those visits, I take it?

19 A No, I do recall it was the summertime.

20 Q In summertime?

21 A Uh-huh (affirmative).

22 Q And again the discussion was very

1 brief at these visits. I mean it was more like
2 to look around and see what was happening?

3 A That's the standard protocol, yes.
4 That's the standard protocol.

5 Q And when you were -- let's say that
6 one time that you were inside, or all three
7 times, and your partner is that supposed to be
8 like -- and I'm not intending to be funny here --
9 but the silent partner? Or were you authorized
10 or permitted to speak as part of the --

11 A We are authorized to interject.

12 Q And did you speak to Mr. Rice?

13 A I don't recall ever speaking to him.

14 Q And those three visits were all with
15 Missy?

16 A Correct.

17 Q You smile whenever I say Missy. Is
18 that not what you --

19 A Oh, no, no, that's --

20 Q All right. Were you ever alone with
21 Mr. Rice during these visits?

22 A No.

1 Q At any other time?

2 A No. If I filled in for a office visit
3 which Missy Cruze was not available, I would have
4 been the one they would have called to conduct
5 the office visit within the office.

6 Q How often did office visits occur?

7 A I don't know how often he came in.
8 Weekly, bi-weekly.

9 Q Is this the same kind of visit, or is
10 this just the weekly check-in?

11 A Weekly check-in to your Probation
12 Officer.

13 Q And those weekly check-ins, there
14 wasn't much discussion other than just to sign
15 your name or something like that, right?

16 A Discussions with my clients revolve
17 around what's going on in therapy. Do you have
18 fantasies, thoughts? Group discussions, home,
19 employment, polygraph information, whatever is
20 going on at the time.

21 Q Did you ever have any specific duties
22 other than serving as a backup home visit officer

1 with respect to Mr. Rice?

2 A No.

3 Q So the limits of your duties as a
4 Supervising Probation Officer with him was to
5 serve as backup officer for home visits?

6 A And if somebody is out of the office,
7 if like circumstances, if Missy Cruze was out of
8 the office, I am referred -- sex offender cases
9 are referred to me.

10 Q But that didn't actually happen during
11 this two and a half years?

12 A If they did, I don't recall. But if
13 somebody came in that was seen by another officer
14 for a sex crime if I'm not there or another
15 officer that doesn't specifically supervise that
16 population, they are seen by the partner, another
17 sex offender officer.

18 Q So Michael Rice's case was not really
19 considered to be your case, but rather Missy's
20 case, right?

21 A Correct.

22 Q And you were never his official

1 supervising officer?

2 A Correct.

3 Q Did you actually have a file for Mr.
4 Rice in your office?

5 A No, sir.

6 Q Did you ever prepare any written
7 report of your participation of his supervision?

8 A No, sir.

9 Q Did you ever participate in any group
10 meetings at your office with respect to Mr. Rice?

11 A None that I can recall.

12 Q When was the last time that you
13 participated in any examination of or discussion
14 with Mr. Rice?

15 A I can't recall.

16 Q If you've not done so in the last 14
17 years after his parole ended in August 2002, how
18 can you issue a written risk assessment about him
19 in November 2015?

20 A I based my risk assessment on the
21 reports written.

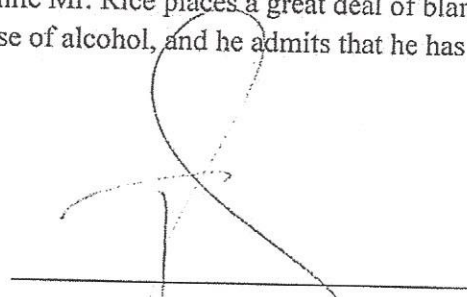
22 Q And what current tests or written

Statement of Tammy Gremminger

I declare under penalty of perjury that the following is true and correct based on my knowledge:

1. I am a Parole Officer at the Missouri Department of Corrections. I have worked in the Department of Corrections for more than 30 years during which I have gained substantial expertise in the management of sex offenders as they reenter the community. Through my work, I have learned to utilize the criteria and tools provided by the state of Missouri to assess the risks posed by sex offenders generally and to recognize risk factors that elevate the risks posed by certain types of offenders. I have testified as an expert in the area of risk assessment of child sex offenders in a number of cases in Missouri, in which I have offered my opinion on the risk of re-offense by sexual offenders convicted of similar offenses to those committed by Michael Rice.
2. Counsel for the Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC) contacted me to request my assistance with regard to an adjudication before the Administrative Law Judge for the FCC relating to Michael Rice, currently a resident of St. Charles, Missouri. Mr. Rice is a sex offender registered on the Missouri sex offender registry and it is my understanding he is a current applicant for a radio station authorization from the FCC. I remember Michael Rice and have reviewed his file and records in order to refresh my recollection of his history, treatment and test results as he passed through the parole and probation process in Missouri. I am attaching a copy of Mr. Rice's records which are kept in the regular course of business here at the Missouri Department of Corrections. The opinions I express in my written and oral testimony are based upon my recollection of Mr. Rice's performance during his parole and these records.
3. Mr. Rice was incarcerated from 1995 until 2000 for sex crimes against five minor males in the early 1990's; the victims were aged 9-14 years. During a preliminary history taken as part of a lie detector test given on June 6, 2000, Mr. Rice admitted that his sex offenses with minors began in his early thirties and stretched over decades, encompassing hundreds of victims up until the time of his arrest and last incarceration. The history of those offenses included a prolonged period of time grooming the victims through the use of alcohol as well as providing entertainment in the form of videos and music, often late into the night. One of the victims was no longer conscious when he was molested. Another victim was trapped by Mr. Rice in a building housing a radio station transmitter controlled by Mr. Rice and forced to submit to Mr. Rice's sexual assault. These actions and the circumstances under which they took place indicate that the crimes were not impulsive, but instead were the result of substantial premeditation and planning.

4. Mr. Rice's file indicates that he did not receive sex offender treatment during parole from a state approved therapist. As a result, I am concerned that he received inadequate therapy, instead of the State required therapy he should have gotten. His failure to obtain proper therapy is factor undermining any claim that he is rehabilitated. His file also indicates that he did not appear for a polygraph test as required at the end of his parole.
5. At the request of the Bureau's counsel, I have also reviewed the report prepared by Mr. Rice's experts, Drs. Duncan and Hively for this proceeding. In those reports, prepared after interviews with Mr. Rice, it is apparent to me that he has not taken responsibility for his actions or developed any kind of empathy for his victims. Instead, he masks responsibility for the crimes by pointing to his mental condition and his binge drinking.
6. Mr. Rice's scores on the Static 99, an actuarial test we use to assess the risk associated with a sex offender living in the community, indicate that he is a moderate to high risk. Certain risk factors bolster this assessment. Mr. Rice's lack of full time employment, his lack of a family structure, and his apparent failure to take full responsibility for his actions (instead asserting that it is solely the risk of a mental condition and binge drinking) are all risk factors that are associated with an elevated risk of re-offense. Other factors that are important are the number of victims, the fact that the victims were all male children, and the fact that he groomed these minors for a prolonged period and plied them with alcohol.
7. In conclusion, I believe that Mr. Rice still poses a substantial risk of re-offense. The risk of re-offense associated with other sex offenses such as opposite sex type sex offenses, diminishes with time. In contrast, sex offenders such as Mr. Rice continue to pose a substantial risk, particularly where they fail to complete proper treatment, accept responsibility for their offenses, and mitigate the risk factors described above.
8. Of further concern is the fact that while Mr. Rice places a great deal of blame for the commission of his offenses on his use of alcohol, and he admits that he has continued to drink.



Tammy Gremminger
Parole Officer
Missouri State Department of Corrections

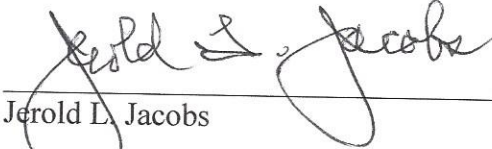
CERTIFICATE OF SERVICE

I, Jerold L. Jacobs, hereby certify that on this 30th day of November, 2016, I filed the foregoing "LAKE BROADCASTING, INC.'S OPPOSITION TO ENFORCEMENT BUREAU'S REQUEST FOR EXTENSION OF TIME TO PROVIDE EXPERT'S DOCUMENTATION AND MOTION TO DISQUALIFY EXPERT" in ECFS and caused a copy to be sent via First Class United States Mail and via e-mail to the following:

Hon. Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Richard.Sippel@fcc.gov
Patricia.Ducksworth@fcc.gov
Monique.Gray@fcc.gov

William Knowles-Kellett, Esq.
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
William.Knowles-Kellett@fcc.gov

Gary Oshinsky, Esq.
Pamela Kane, Esq.
Special Counsel
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
Gary.Oshinsky@fcc.gov
Pamela.Kane@fcc.gov



Jerold L. Jacobs